

SENATE BILL 217

C4

11r0687

By: **Senator Kelley**

Introduced and read first time: January 27, 2011

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Life Insurance and Annuities – Retained Asset Accounts – Beneficiaries’ Bill**
3 **of Rights**

4 FOR the purpose of prohibiting an insurer from using a certain retained asset account
5 as the mode of settlement of the proceeds payable under a life insurance policy
6 or annuity contract unless the insurer discloses the option of using a retained
7 asset account to the beneficiary or the beneficiary’s legal representative at a
8 certain time; requiring the insurer to inform the beneficiary of the right to
9 receive a lump-sum payment of certain proceeds in a certain form; requiring an
10 insurer to ensure that a complete description and explanation, in a certain
11 format, of all of the payment options for certain proceeds available to the
12 beneficiary be made at a certain time under certain circumstances; requiring
13 that certain information be included in the description and explanation of
14 payment options for certain proceeds; requiring the description and explanation
15 to be in a certain form; requiring insurers to report certain information about
16 retained asset accounts to the Maryland Insurance Administration; requiring
17 an insurer to immediately return any remaining balance in a retained asset
18 account to the beneficiary if the account becomes inactive in a certain manner;
19 providing that failure to meet certain requirements of this Act is an unfair trade
20 practice and a violation of certain provisions of the Insurance Article; providing
21 for the applicability of this Act; and generally relating to retained asset
22 accounts under life insurance and annuities.

23 BY adding to
24 Article – Insurance
25 Section 16–117
26 Annotated Code of Maryland
27 (2006 Replacement Volume and 2010 Supplement)

28 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
29 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Insurance2 **16–117.**

3 **(A) IN THIS SECTION, “RETAINED ASSET ACCOUNT” MEANS ANY**
4 **MECHANISM WHEREBY THE SETTLEMENT OF PROCEEDS PAYABLE UNDER A LIFE**
5 **INSURANCE POLICY OR AN ANNUITY CONTRACT, INCLUDING THE PAYMENT OF**
6 **CASH SURRENDER VALUE, IS ACCOMPLISHED BY THE INSURER OR AN ENTITY**
7 **ACTING ON BEHALF OF THE INSURER DEPOSITING THE PROCEEDS INTO AN**
8 **ACCOUNT, WHERE THOSE PROCEEDS ARE RETAINED BY THE INSURER IN**
9 **ACCORDANCE WITH A SUPPLEMENTARY CONTRACT.**

10 **(B) (1) AN INSURER MAY NOT USE A RETAINED ASSET ACCOUNT AS**
11 **THE MODE OF SETTLEMENT OF THE PROCEEDS PAYABLE UNDER A LIFE**
12 **INSURANCE POLICY OR AN ANNUITY CONTRACT UNLESS, BEFORE THE**
13 **TRANSFER OF THE DEATH BENEFIT TO THE RETAINED ASSET ACCOUNT, THE**
14 **INSURER DISCLOSES THE OPTION OF USING A RETAINED ASSET ACCOUNT TO**
15 **THE BENEFICIARY OR THE BENEFICIARY’S LEGAL REPRESENTATIVE.**

16 **(2) THE INSURER SHALL INFORM THE BENEFICIARY OF THE**
17 **RIGHT TO RECEIVE A LUMP–SUM PAYMENT OF THE PROCEEDS OF THE LIFE**
18 **INSURANCE POLICY OR ANNUITY CONTRACT IN THE FORM OF A BANK CHECK.**

19 **(C) (1) THE INSURER SHALL ENSURE THAT A COMPLETE**
20 **DESCRIPTION AND EXPLANATION, IN WRITTEN OR ELECTRONIC FORMAT, OF**
21 **ALL OF THE PAYMENT OPTIONS FOR THE PROCEEDS OF A LIFE INSURANCE**
22 **POLICY OR ANNUITY CONTRACT AVAILABLE TO THE BENEFICIARY PRECEDES OR**
23 **ACCOMPANIES THE TENDER OF OTHER THAN A LUMP–SUM PAYMENT OF THE**
24 **DEATH BENEFIT UNDER THE LIFE INSURANCE POLICY OR ANNUITY CONTRACT.**

25 **(2) THE REQUIRED DESCRIPTION AND EXPLANATION SHALL**
26 **INCLUDE THE FOLLOWING:**

27 **(I) THE RECOMMENDATION TO CONSULT A TAX ADVISOR,**
28 **AN INVESTMENT ADVISOR, OR ANY OTHER FINANCIAL ADVISOR REGARDING TAX**
29 **LIABILITY AND INVESTMENT OPTIONS;**

30 **(II) THE INITIAL INTEREST RATE, WHEN AND HOW INTEREST**
31 **RATES MAY CHANGE, AND ANY DIVIDENDS AND OTHER GAINS THAT MAY BE PAID**
32 **OR DISTRIBUTED TO THE ACCOUNT HOLDER;**

33 **(III) THE CUSTODIAN OF THE FUNDS OR ASSETS OF THE**
34 **RETAINED ASSET ACCOUNT;**

1 (IV) THE COVERAGE GUARANTEED BY THE FEDERAL
2 DEPOSIT INSURANCE CORPORATION (FDIC) AND THE AMOUNT OF THE
3 COVERAGE;

4 (V) THE LIMITATIONS, IF ANY, ON THE NUMBERS AND
5 AMOUNTS OF WITHDRAWALS OF FUNDS FROM THE RETAINED ASSET ACCOUNT
6 OR INVESTMENT, INCLUDING ANY MINIMUM OR MAXIMUM BENEFIT PAYMENT
7 AMOUNTS;

8 (VI) THE DELAYS, IF ANY, THAT THE ACCOUNT HOLDER MAY
9 ENCOUNTER IN COMPLETING AUTHORIZED TRANSACTIONS AND THE
10 ANTICIPATED DURATION OF THE DELAYS;

11 (VII) THE SERVICES PROVIDED FOR A FEE, INCLUDING A LIST
12 OF THE FEES OR THE METHOD OF THEIR CALCULATION;

13 (VIII) THE NATURE AND FREQUENCY OF STATEMENTS OF
14 ACCOUNT;

15 (IX) A STATEMENT THAT THE PAYMENT OF SOME OR ALL OF
16 THE PROCEEDS OF THE DEATH BENEFIT MAY BE BY THE DELIVERY OF CHECKS,
17 DRAFTS, OR OTHER INSTRUMENTS TO ACCESS THE AVAILABLE FUNDS;

18 (X) A STATEMENT THAT THE ENTIRE PROCEEDS ARE
19 AVAILABLE TO THE ACCOUNT HOLDER BY THE USE OF ONE CHECK, DRAFT, OR
20 OTHER INSTRUMENT;

21 (XI) A STATEMENT THAT THE INSURER OR A RELATED PARTY
22 MAY DERIVE INCOME, IN ADDITION TO ANY FEES CHARGED ON THE RETAINED
23 ASSET ACCOUNT, FROM THE TOTAL GAINS RECEIVED ON THE INVESTMENT OF
24 THE BALANCE OF FUNDS IN THE RETAINED ASSET ACCOUNT;

25 (XII) THE TELEPHONE NUMBER, ADDRESS, AND OTHER
26 CONTACT INFORMATION, INCLUDING WEB SITE ADDRESS, FOR OBTAINING
27 ADDITIONAL INFORMATION REGARDING THE RETAINED ASSET ACCOUNT; AND

28 (XIII) THE STATEMENT "FOR FURTHER INFORMATION,
29 PLEASE CONTACT THE MARYLAND INSURANCE
30 ADMINISTRATION".

31 (3) THE REQUIRED DESCRIPTION AND EXPLANATION SHALL BE
32 IN:

1 (I) EASY-TO-UNDERSTAND LANGUAGE; AND

2 (II) BOLD OR AT LEAST 12 POINT TYPE.

3 (D) INSURERS SHALL REPORT, ON AN ANNUAL BASIS, THE FOLLOWING
4 INFORMATION TO THE ADMINISTRATION:

5 (1) THE NUMBER AND DOLLAR BALANCE OF RETAINED ASSET
6 ACCOUNTS IN FORCE AT THE BEGINNING OF THE YEAR;

7 (2) THE NUMBER AND DOLLAR AMOUNT OF RETAINED ASSET
8 ACCOUNTS ISSUED OR ADDED DURING THE YEAR;

9 (3) THE NUMBER AND DOLLAR AMOUNT OF RETAINED ASSET
10 ACCOUNTS CLOSED OUT OR WITHDRAWN DURING THE YEAR;

11 (4) THE NUMBER AND DOLLAR BALANCE OF RETAINED ASSET
12 ACCOUNTS IN FORCE AT THE END OF THE YEAR;

13 (5) THE INVESTMENT EARNINGS CREDITED TO RETAINED ASSET
14 ACCOUNTS;

15 (6) FEES AND OTHER CHARGES ASSESSED DURING THE YEAR;

16 (7) A DESCRIPTION OF THE INTEREST RATES PAID ON RETAINED
17 ASSET ACCOUNTS AND THE METHODOLOGY AND FACTORS USED TO DETERMINE
18 THE INTEREST RATES PAID TO BENEFICIARIES WITH RETAINED ASSET
19 ACCOUNTS;

20 (8) THE TOTAL NUMBER AND VALUE OF RETAINED ASSET
21 ACCOUNTS THAT HAVE BEEN IN EXISTENCE FOR 1 YEAR, 3 YEARS, AND 5 YEARS;

22 (9) THE IDENTITY OF ANY FINANCIAL INSTITUTION OR OTHER
23 ENTITY THAT ADMINISTERS RETAINED ASSET ACCOUNTS ON THE INSURER'S
24 BEHALF;

25 (10) THE NUMBER AND AMOUNTS OF RETAINED ASSET ACCOUNTS
26 THAT ARE TRANSFERRED ANNUALLY TO STATE UNCLAIMED PROPERTY FUNDS
27 UNDER ABANDONED PROPERTY LAWS; AND

28 (11) ANY OTHER INFORMATION RELATING TO RETAINED ASSET
29 ACCOUNTS AS REQUIRED BY THE ADMINISTRATION.

1 **(E) (1) AN INSURER SHALL RETURN IMMEDIATELY ANY REMAINING**
2 **BALANCE HELD IN A RETAINED ASSET ACCOUNT TO THE BENEFICIARY WHEN**
3 **THE RETAINED ASSET ACCOUNT BECOMES INACTIVE.**

4 **(2) A RETAINED ASSET ACCOUNT BECOMES INACTIVE FOR**
5 **PURPOSES OF THIS SUBSECTION IF NO FUNDS ARE WITHDRAWN FROM THE**
6 **RETAINED ASSET ACCOUNT, AND NO AFFIRMATIVE DIRECTIVE HAS BEEN**
7 **PROVIDED TO THE INSURER BY THE BENEFICIARY, DURING ANY CONTINUOUS**
8 **4-YEAR PERIOD.**

9 **(F) FAILURE TO MEET ANY REQUIREMENT OF THIS SECTION IS AN**
10 **UNFAIR TRADE PRACTICE AND A VIOLATION OF TITLE 27 OF THIS ARTICLE.**

11 SECTION 2. AND BE IT FURTHER ENACTED, That this Act applies to claims
12 for death benefits under individual or group policies of life insurance or individual or
13 group annuity contracts issued, delivered, or renewed in the State on or after October
14 1, 2011.

15 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
16 October 1, 2011.